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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANCISCO HERNANDEZ,

Defendant and Appellant.

B261366

(Los Angeles County
Super. Ct. No. BA427381)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Henry Hall, Judge. Affirmed.

Kyle D. Smith, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Appellant Francisco Hernandez appeals from a final judgment of conviction following a jury trial. He was sentenced to prison for three years following his conviction for assault with a deadly weapon and the court finding true that he suffered a prior felony conviction. (Pen. Code, § 245, subd. (a)(1), Pen. Code, § 667.5, subd. (b).) We affirm.

FACTUAL AND PROCEDURAL SUMMARY

On July 19, 2014, Aldo Tuna was working as a security guard at a shopping center located at 5520 Santa Monica Boulevard, Los Angeles, CA. At around 2:45 p.m., an employee of the El Pollo Loco, which was located in that shopping center, asked Tuna to respond to a disturbance at the restaurant. A person in the restaurant was disturbing a customer by asking for money. As Tuna entered the restaurant, he saw appellant seated at a table and speaking incoherently. When Tuna asked appellant to stop asking customers for money, appellant responded with an expletive and told Tuna to get out of the restaurant. Appellant then reached out and swung his hand near Tuna's stomach. Appellant had a knife in his hand. Tuna backed up out of the way of the knife. At that point, appellant got up from the table and walked to the bathroom and locked himself in. Tuna called the police, who ultimately took appellant into custody. Upon patting down appellant, the officers discovered a small folding knife. Tuna confirmed that it was the knife that appellant had swung at him. On December 8, 2014, a jury convicted defendant of assault with a deadly weapon other than a firearm. In a bifurcated proceeding, the trial judge found true beyond a reasonable doubt that the defendant had suffered a prior conviction as alleged in the information.¹ On January 5, 2015, the court sentenced appellant to prison as previously indicated. A timely appeal was filed.

¹ A detailed recitation of the facts of the underlying offense is unnecessary. It is sufficient to note that appellant was previously convicted of assault with a deadly weapon in violation of Penal Code section 245, subdivision (a)(1).

CONTENTIONS

After examination of the record, appointed appellate counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record. By notice filed December 9, 2015, the clerk of this court advised appellant to submit within 30 days any contentions, grounds of appeal, or arguments he wished this court to consider. No response has been received to date.

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *Smith v. Robbins* (2000) 528 U.S. 259, 278-284.)

DISPOSITION

The final judgment of conviction against appellant is affirmed.

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JONES, J. *

We concur:

EDMON, P. J.

ALDRICH, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.